



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 09 2004

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Michael E. Groh  
Safety, Health and Environmental Manager  
Cognis Corporation  
4900 Este Avenue  
Cincinnati, Ohio 45232

Re: Finding of Violation  
Cognis Corporation  
Cincinnati, Ohio

Dear Mr. Groh:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Finding of Violation (FOV) to Cognis Corporation (you). We find that you have violated Section 608 of the Clean Air Act, 42 U.S.C. § 7671g, at your Cincinnati, Ohio facility.

We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

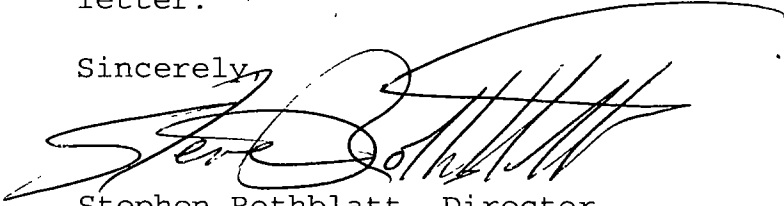
We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contact in this matter is Brian Dickens. You may call him at (312) 886-6073 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any

conference within 30 calendar days of your receipt of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Rothblatt", with a large, sweeping flourish extending from the top of the signature.

Stephen Rothblatt, Director  
Air and Radiation Division

Enclosure

cc: Mike Kramer, HCDOES

**IN THE MATTER OF:**

## FINDING OF VIOLATION

**EPA-5-04-OH-18**

Proceedings Pursuant to  
the Clean Air Act,  
42 U.S.C. §§ 7401 et seq.

The United States Environmental Protection Agency finds that Cognis Corporation (Cognis) has violated Section 608 of the Clean Air Act (Act), 42 U.S.C. § 7671g. Specifically, Cognis has violated the Protection of Stratospheric Ozone Standards at 40 C.F.R. Part 82, Subpart F, Recycling and Emissions Reduction, as follows:

1. The Stratospheric Ozone Standards, Subpart F, apply to, among others, any person servicing, maintaining, repairing, or owning appliances, as those terms are defined at 40 C.F.R. § 82.152. 40 C.F.R. § 82.150(b).
2. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.152, define "industrial process refrigeration" as, "complex customized appliances used in ... manufacturing industries. These appliances are directly linked to the industrial process."
3. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156 (i)(5), require that an owner or operator of appliances normally containing more than 50 pounds of refrigerant have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 15 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 15 percent during a twelve month period.

4. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(2), require that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a twelve month period.
5. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(9), require that an owner or operator of industrial process refrigeration equipment repair leaks pursuant to 40 C.F.R. § 82.156(i)(2) and (i)(5) within 30 days after discovery of the leak.
6. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct an initial verification test at the conclusion of the repair efforts.
7. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct a follow-up verification test within 30 days after the initial verification test.
8. Pursuant to 40 C.F.R. § 82.156(i)(6), owners or operators are not required to repair the leaks defined in Section 82.156(i)(1), (2) and (5) if, within 30 days of discovering the exceedance of the applicable leak rate or within 30 days of a failed follow-up verification test in accordance with Section 82.156(i)(3)(ii), they develop a one-year retrofit or retirement plan for the leaking appliance. The plan must be kept at the site of the appliance.
9. Pursuant to 40 C.F.R. § 82.156(i)(3)(ii), if the follow-up verification test indicates that the repairs to industrial process refrigeration equipment have not been successfully completed, the owner must retrofit or replace the equipment in accordance with Section 82.156(i)(6), within one year of a failed follow-up verification test.
10. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3)(iii), require that an owner or operator of industrial process refrigeration equipment that fails a follow-up verification test must notify U.S. EPA within 30

days of the failed follow-up verification test, in accordance with 40 C.F.R. § 82.166(n).

**Statement of Facts**

11. Cognis has two industrial process refrigeration units, 60 Freon Condenser RCNC1 (unit 60) and 68 Freon Condenser RCNC1 (unit 68), and one appliance, 32 COMP (unit 32), which use or did use the class II refrigerant HCFC-22, or R-22 at its facility located at 4900 Este Avenue, Cincinnati, Ohio.
12. Appliance unit 32 experienced leaks during the time period between June 17, 2003 and June 25, 2003 that resulted in an annual leak rate, measured on June 25, 2003, exceeding 15 percent.
13. Repairs performed, if any, on appliance unit 32 between June 25, 2003 and August 19, 2003, did not result in the annual leak rate being returned to below 15 percent. The annual leak rate, measured on August 19, 2003, continued to exceed 15 percent.
14. Cognis did not develop retrofit or retirement plans for appliance unit 32 when repairs performed, if any, were unable to bring the leak rate to below 15 percent.
15. Industrial process refrigeration unit 60 experienced leaks during the time between:
  - i. June 4 and June 5, 2000
  - ii. June 5 and July 6, 2000
  - iii. July 6, and August 8, 2000that resulted in an annual leak rate, measured on June 5, 2000, July 6, 2000, and August 8, 2000, respectively, exceeding 35 percent.
16. Industrial process refrigeration unit 68 experienced leaks during the time between:
  - i. September 4 and October 19, 2000
  - ii. October 27 and December 16, 2000
  - iii. November 20 and November 21, 2001that resulted in an annual leak rate, measured on October 19, 2000, December 16, 2000, and November 21, 2001, respectively, exceeding 35 percent.
17. Initial verification tests, if any, performed within thirty days following the discovery of each excessive leak rate failed to verify that the leak rate of industrial process refrigeration units 60 and 68 was below 35 percent.

18. Follow-up verification tests, if any, performed within thirty days following the initial verification tests, if any, failed to verify that the repairs performed in conjunction with the tests had brought the leak rate of industrial process refrigeration units 60 and 68 to below 35 percent.
19. Leak rates measured on industrial process unit 60 on:
  - i. July 6, 2000
  - ii. August 8, 2000
  - iii. October 27, 2000confirmed that repair attempts, if any, to unit 60 in response to leaks identified in paragraph 15 above, failed to bring the leak rate to below 35 percent, and that initial and follow-up verification tests failed to confirm the leak rate was below 35 percent.
20. Leak rates measured on industrial process unit 68 on:
  - i. December 16, 2000
  - ii. July 22, 2001
  - iii. August 15, 2002confirmed that repair attempts, if any, to unit 68 in response to leaks identified in paragraph 16 above, failed to bring the leak rate to below 35 percent, and that initial and follow-up verification tests failed to confirm the leak rate was below 35 percent.
21. Cognis did not develop retrofit or retirement plans for industrial process refrigeration units 60 or 68 when repairs performed, if any, were unable to bring the leak rate to below 35 percent.
22. Cognis did not retrofit or retire industrial process refrigeration units 60 and 68 when repairs performed, if any, within the following 30 days were unable to bring the leak rate to below 35 percent.
23. Cognis did not notify U.S. EPA after failed follow-up verification tests performed, if any, showed that repairs had failed to bring the leak rates of industrial process refrigeration units 60 or 68 to below 35 percent.

#### **Violations**

24. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(2) requires Cognis to have leaks

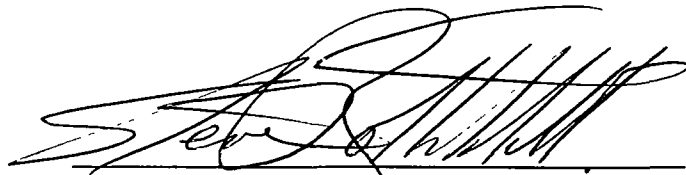
repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a twelve month period. Cognis is in violation of 40 C.F.R. § 82.156(i)(2) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to repair leaking appliances such that the annual leak rate is brought below 35 percent on three occasions for unit 60 and three occasions for unit 68.

25. As owner of an appliance normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(5) requires Cognis to have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 15 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 15 percent during a twelve month period. Cognis is in violation of 40 C.F.R. § 82.156(i)(5) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to repair a leaking appliance such that the annual leak rate is brought below 15 percent on one occasion for unit 32.
26. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(3) requires Cognis to perform an initial verification test to ensure that repairs have been successful. Cognis is in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to properly conduct the initial verification test on three occasions for unit 60 and three occasions for unit 68.
27. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(3) requires Cognis to perform a follow-up verification test to ensure that repairs have been successful. Cognis is in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to properly conduct the follow-up verification test on three occasions for unit 60 and three occasions for unit 68.
28. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(6) requires Cognis to develop a one-year retrofit and retirement plan for leaking refrigeration units within thirty days of a failed follow-up verification test. Cognis is in violation of 40 C.F.R. § 82.156(i)(6) and

Section 608 of the Act, 42 U.S.C. § 7471g, for failing to develop a one-year retrofit and retirement plan for leaking refrigeration equipment following a failed follow-up verification test on one occasion for unit 60 and two occasions for unit 68.

29. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(3)(ii) requires Cognis to retrofit or retire a leaking refrigeration unit within one year of a failed follow-up verification test. Cognis is in violation of 40 C.F.R. § 82.156(i)(3)(ii) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to retrofit or retire leaking refrigeration equipment following a failed follow-up verification test on one occasion for unit 60 and two occasions for unit 68.
30. As owner of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant, 40 C.F.R. § 82.156(i)(3)(iii) requires Cognis to notify the U.S. EPA within 30 days of a failed follow-up verification test. Cognis is in violation of 40 C.F.R. § 82.156(i)(3)(iii) and Section 608 of the Act, 42 U.S.C. § 7471g, for failing to notify the U.S. EPA of failed follow-up verification tests on three occasions for unit 60 and three occasions for unit 68.

9/9/2004  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division



**CERTIFICATE OF MAILING**

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-04-OH-18, by Certified Mail, Return Receipt Requested, to:

Michael E. Groh  
Safety, Health and Environmental Manager  
Cognis Corporation  
4900 Este Avenue  
Cincinnati, Ohio 45232

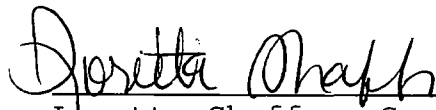
I also certify that I sent copies of the Finding of Violation by first class mail to:

Mike Kramer  
Hamilton County Department of Environmental Services  
250 William Howard Taft Road  
Cincinnati, Ohio 45219

and

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
PO Box 1049  
Columbus, Ohio 43216

on the 13<sup>th</sup> day of September, 2004.

  
Loretta Shaffer, Secretary  
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 15586431